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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

MARTIN TRUJILLO,

Defendant and Appellant.

D070305

(Super. Ct. No. SCS283259)

APPEAL from a judgment of the Superior Court of San Diego County, Ana España, Judge. Affirmed.

Britton Donaldson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Martin Trujillo appeals from a judgment following his guilty plea to a single count of possessing a controlled substance (cocaine) for sale (Health & Saf. Code, § 11351),<sup>1</sup>

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<sup>1</sup> All further statutory references are to the Health and Safety Code.

with a further admission that the cocaine exceeded four kilograms by weight (§ 11370.4, subd. (a)(2)). Appointed appellate counsel filed a brief presenting no argument for reversal, but inviting this court to review the record for error in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Trujillo has not responded to our invitation to file a supplemental brief. After having independently reviewed the entire record for error as required by *Anders v. California* (1967) 386 U.S. 738 (*Anders*) and *Wende*, we affirm.

## I.

### FACTUAL AND PROCEDURAL BACKGROUND

According to the probation officer's report and testimony at the preliminary hearing, Trujillo was stopped at the Mexican border with 14.66 kilos of cocaine in his vehicle.

On November 30, 2015, Trujillo was charged with one count of importing a controlled substance into California (§ 11352, subd. (a)) and one count of possessing a controlled substance for sale (§ 11351). Both counts also included special weight allegations, alleging that the controlled substance was in an amount exceeding one, four or 10 kilograms by weight. (§ 11370.4, subd. (a)(1), (2), (3).)

On February 23, 2016, the trial court held a hearing on a *Marsden* motion (*People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*)) after Trujillo requested that defense counsel be replaced. The trial court denied the motion.

On March 9, 2016, Trujillo pled guilty to one count of possessing a controlled substance for sale (§ 11351) and admitted that the weight of the controlled substance exceeded four kilograms. (§ 11370.4, subd. (a)(2).) The plea agreement included a

stipulation to a seven-year sentence with a possible split sentence, and an agreement that the People would dismiss the remaining count.

On April 7, 2016, the trial court sentenced Trujillo but then recalled the sentence during the same proceeding because at the conclusion of the sentencing hearing, Trujillo stated that he was not guilty and wanted a new attorney.

On April 13, 2016, the trial court held a second *Marsden* hearing and denied the motion. The trial court then continued the sentencing hearing for a week to allow defense counsel to consider whether to bring a motion to withdraw the guilty plea.

At a hearing on April 20, 2016, defense counsel reported to the trial court that she did not believe there was a legal basis for Trujillo to withdraw his guilty plea. The trial court agreed that there was no legal ground for a withdrawal of the guilty plea, and it sentenced Trujillo to a seven-year jail term, with an order that three years were to be served in custody and four years on mandatory supervision. The trial court awarded a total of 325 days of credit, and at defense counsel's request, the trial court struck the conditions of mandatory supervision pertaining to alcohol use.

Trujillo filed a notice of appeal and obtained a certificate of probable cause from the trial court.

## II.

### DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings in the trial court. Counsel presented no argument for reversal but invited this court to review the record for error in accordance with *Wende, supra*, 25 Cal.3d 436.

Counsel has identified the following issues that "might arguably support the appeal" (*Anders, supra*, 386 U.S. at p. 744): (1) Whether counsel was ineffective for not filing a motion to suppress evidence; (2) Whether the trial court followed the correct procedure after Trujillo indicated he wanted to withdraw his plea of guilty; (3) Whether the trial court abused its discretion in denying both of Trujillo's *Marsden* motions; (4) Whether there was good cause to set aside Trujillo's guilty plea; (5) Whether there was a factual basis for the guilty plea; (6) Whether the sentence was authorized; (7) Whether the fines and fees were authorized; (8) Whether the pre-custody credits were correctly awarded; and (9) Whether the conditions of mandatory supervision are subject to challenge.

After we received counsel's brief, we gave Trujillo an opportunity to file a supplemental brief, but Trujillo did not respond.

A review of the record pursuant to *Wende, supra*, 25 Cal.3d 436, and *Anders, supra*, 386 U.S. 738, including the issues suggested by counsel, has disclosed no reasonably arguable appellate issue. Trujillo has been adequately represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

IRION, J.

WE CONCUR:

McCONNELL, P. J.

BENKE, J.